



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/375,867 | 08/17/1999 | CHARLES D. LANIER | ASTRP.235RC2 | 5707 |

20995 7590 01/16/2003

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

INGBERG, TODD D

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2124

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/375,867

Applicant(s)

C. D. Lanier

Examiner

INGBERG

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/1/2002
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-31, 33-35, 45-47, 49-59 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-31, 33-35, 45-47, 49-59 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 2124

Reissue Applications

Status of the Claims

Claims 26 - 31, 33 - 35, 45 - 47, 49-59 are pending.

Claims 26 - 31, 33 - 35, 45 - 47, 49-59 are allowable.

Reissue Formalities

1. This offer to surrender the original patent was located in application 08/724,947.
2. This application is objected to under 37 CFR 1.172(a) as the assignee has not established its ownership interest in the patent for which reissue is being requested. An assignee must establish its ownership interest *in order to support the consent to a reissue application required by 37 CFR 1.172(a)*. The submission establishing the ownership interest of the assignee is informal. There is no indication of record that the party who signed the submission is an appropriate party to sign on behalf of the assignee. 37 CFR 3.73(b).

A proper submission establishing ownership interest in the patent, pursuant to 37 CFR 1.172(a), is required in response to this action.

The person who signed the submission establishing ownership interest is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.

3. A certificate of correction is required for RE37431 which is a reissue of application 08/724,947.

Art Unit: 2124

4. The reissue oath/declaration filed with this application is defective because it fails to contain a statement that *all* errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP § 1414.

NOTE: The Declaration is a copy of the original Declaration filed in 08/724,947. The errors identified may no longer apply and amendments have been made which require a supplemental Declaration.

35 U.S.C. 251

5. Claims 26 - 31, 33 - 35, 45 - 47, 49-59 are rejected under 35 USC 251 as being based on a defective reissue declaration (see paragraph above).

Response to Arguments

6. Applicant's arguments filed November 11, 2002 have been fully considered and are persuasive. Claims are in condition for allowance. Applicant needs to file a new declaration and certificate of correction as indicated above.

Correspondence Information

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Todd Ingberg** whose telephone number is **(703) 305-9775**. The Examiner is working a Maxi-Flex schedule and can be reached Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the **Examiner's Supervisor, Kakali Chaki** be reached at **(703)305-9662**. Any response to this office action should be mailed

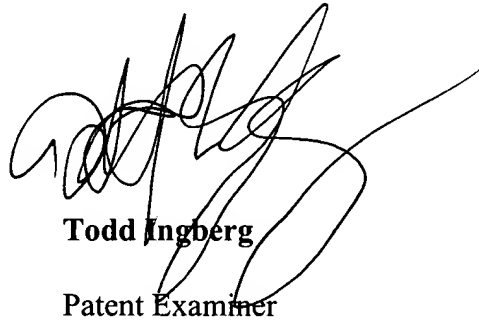
Art Unit: 2124

to: **Director of Patents and Trademarks Washington, D.C. 20231**, or **Hand-delivered** responses should be brought to **Crystal Park II, 2121 Crystal Drive Arlington, Virginia,** (**Receptionist located on the fourth floor**), or **faxed**. The following fax numbers apply:

Official (703) 746 - 7239

Non Official/ Draft (703) 746 -7240

After Final (703) 746 - 7238



Todd Ingberg
Patent Examiner

Art Unit 2124

January 12, 2003